

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0697-PWS-E **TCEQ ID:** RN101190197 **CASE NO.:** 33312
RESPONDENT NAME: Fossil Rim Wildlife Center, Inc.

| | | |
|---|---|---|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input checked="" type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |

SITE WHERE VIOLATION(S) OCCURRED: Fossil Rim Wildlife Center, 2155 County Road 2008, Somervell County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 6, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: Mr. Darryl Morris, Director of Support Services, Fossil Rim Wildlife Center, Inc., P.O. Box 2189, Glen Rose, Texas 76043; Dr. Patrick R. Condry, Executive Director, Fossil Rim Wildlife Center, Inc., P.O. Box 2189, Glen Rose, Texas 76043
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review Date(s) of Complaints Relating to this Case: None Date of Investigation Relating to this Case: March 19, 2007 Date of NOE Relating to this Case: April 20, 2007 (NOE) Background Facts: This was a routine records review. One violation was documented. WATER Failure to provide ground storage capacity equal to 50% of the maximum daily demand. Specifically, the Facility is required to provide 4,500 gallons of ground storage capacity. At the time of the investigation, the Facility provided a total ground storage capacity of 3,300 gallons, indicating a 27% deficiency [30 TEX. ADMIN. CODE § 290.45(d)(2)(B)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. | Total Assessed: \$315 Total Deferred: \$63 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay SEP Conditional Offset: \$0 Total Paid to General Revenue: \$252 Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Applicable Penalty Policy: September 2002 | Ordering Provisions: The Order will require the Respondent to: a. Within 90 days after the effective date of this Agreed Order, provide a total ground storage capacity equal to 50% of the maximum daily demand; and b. Within 105 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a. |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 23-Apr-2007 | Screening | 26-Apr-2007 | EPA Due | |
| | PCW | 26-Apr-2007 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|----------------------------------|---------------------------|-------|
| Respondent | Fossil Rim Wildlife Center, Inc. | | |
| Reg. Ent. Ref. No. | RN101190197 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|---------------------|--------------------------|------------------------|
| Enf./Case ID No. | 33312 | No. of Violations | 1 |
| Docket No. | 2007-0697-PWS-E | Order Type | 1660 |
| Media Program(s) | Public Water Supply | Enf. Coordinator | Andrea Linson-Mgbeodur |
| Multi-Media | | EC's Team | EnforcementTeam 2 |
| Admin. Penalty \$ Limit Minimum | \$50 | Maximum | \$1,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **Subtotals 2, 3, & 7**

5% Enhancement

Notes: Enhancement due to one previous Notice of Violation ("NOV") with violations that are the same or similar to those in the current enforcement action.

Culpability **Subtotal 4**

0% Enhancement

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **Subtotal 5**

0% Reduction

Before NOV NOV to EDP RP/Settlement Offer

| | | |
|---------------|---|---------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes: The Respondent does not meet the good faith criteria.

| | |
|----------------------------|---------|
| Total EB Amounts | \$1,021 |
| Approx. Cost of Compliance | \$5,000 |

0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

DEFERRAL

20%

Reduction

Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$252

Screening Date 26-Apr-2007

Docket No. 2007-0697-PWS-E

PCW

Respondent Fossil Rim Wildlife Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33312

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101190197

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement due to one previous Notice of Violation ("NOV") with violations that are the same or similar to those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 26-Apr-2007

Docket No. 2007-0697-PWS-E

PCW

Respondent Fossil Rim Wildlife Center, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33312

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101190197

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.45(d)(2)(B)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide ground storage capacity equal to 50% of the maximum daily demand. Specifically, the Facility is required to provide 4,500 gallons of ground storage capacity. At the time of the investigation, the Facility provided a total ground storage capacity of 3,300 gallons, indicating a 27% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | x | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Failure to meet minimum water capacity requirements could result in service outages and potentially expose the public to significant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3

784 Number of violation days

| | | |
|----------------------------|--------------|---|
| mark only one with an x | daily | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | x |
| | single event | |

Violation Base Penalty \$300

Three annual events are recommended calculated from the initial violation date, March 3, 2005, to the screening date, April 26, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,021

Violation Final Penalty Total \$315

This violation Final Assessed Penalty (adjusted for limits) \$315

Economic Benefit Worksheet

Respondent Fossil Rim Wildlife Center, Inc.
Case ID No. 33312
Reg. Ent. Reference No. RN101190197
Media Public Water Supply
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---------------|------------|-----|----------------|---------------|-----------|
| Item Description No commas or \$ | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|------------|-----|------|-------|-------|
| Equipment | \$1,000 | 3-Mar-2005 | 1-Feb-2008 | 2.9 | \$10 | \$195 | \$204 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | \$4,000 | 3-Mar-2005 | 1-Feb-2008 | 2.9 | \$39 | \$778 | \$817 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to provide a total ground storage capacity equal to 50% of the maximum daily demand. Date required is the initial violation date. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,021

Compliance History

| | | | | |
|---|---|----------------------------------|-----------------|--------------|
| Customer/Respondent/Owner-Operator: | CN600636542 | Fossil Rim Wildlife Center, Inc. | Classification: | Rating: |
| Regulated Entity: | RN101190197 | FOSSIL RIM WILDLIFE CENTER | Classification: | Site Rating: |
| ID Number(s): | PUBLIC WATER SYSTEM/SUPPLY REGISTRATION | | | 2130032 |
| Location: | 2155 COUNTY ROAD 2008, SOMERVELL COUNTY, TX | | | |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | | |
| Date Compliance History Prepared: | April 23, 2007 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | April 23, 2002 to April 23, 2007 | | | |

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

- B. Any criminal convictions of the state of Texas and the federal government.
N/A

- C. Chronic excessive emissions events.
N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 03/14/2005 | (348889) |
| 2 | 09/06/2005 | (394884) |
| 3 | 10/05/2005 | (432161) |
| 4 | 04/19/2007 | (554226) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

| | | | | |
|--------------|---|----------|-----------------|----------|
| Date: | 03/03/2005 | (348889) | | |
| Self Report? | NO | | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N) | | | |
| Description: | Failure to have a operational well meter on well #2 (G2130032D). | | | |
| Self Report? | NO | | Classification: | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(f)[G] | | | |
| Description: | Failure to maintain a monthly operating report. | | | |
| Self Report? | NO | | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.121[G] | | | |
| Description: | Failure to provide an adequate monitoring plan. | | | |
| Self Report? | NO | | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.42(I) | | | |
| Description: | Failure to provide a plant operations manual. | | | |
| Self Report? | NO | | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(ii) | | | |
| Description: | Failure to provide ground storage capacity which is equal to 50% of the maximum daily demand. | | | |

- F. Environmental audits.
N/A

- G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FOSSIL RIM WILDLIFE CENTER,
INC.
RN101190197

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0697-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Fossil Rim Wildlife Center, Inc. ("Fossil Rim") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Fossil Rim appear before the Commission and together stipulate that:

1. Fossil Rim owns and operates a public water supply located at 2155 County Road 2008 in Somervell County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. The Commission and Fossil Rim agree that the Commission has jurisdiction to enter this Agreed Order, and that Fossil Rim is subject to the Commission's jurisdiction.
3. Fossil Rim received notice of the violations alleged in Section II ("Allegations") on or about April 25, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Fossil Rim of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Three Hundred Fifteen Dollars (\$315) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Fossil Rim has paid Two Hundred Fifty-Two Dollars (\$252) of the administrative penalty and Sixty-Three Dollars (\$63) is deferred contingent upon Fossil Rim's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance

with the terms of this Agreed Order. If Fossil Rim fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Fossil Rim to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Fossil Rim have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Fossil Rim has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Fossil Rim is alleged to have failed to provide ground storage capacity equal to 50% of the maximum daily demand, in violation of 30 TEX. ADMIN. CODE § 290.45(d)(2)(B)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on March 19, 2007.

III. DENIALS

Fossil Rim generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Fossil Rim pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Fossil Rim's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Fossil Rim Wildlife Center, Inc., Docket No. 2007-0697-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Fossil Rim shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, provide a total ground storage capacity equal to 50% of the maximum daily demand, as required by 30 TEX. ADMIN. CODE § 290.45; and
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

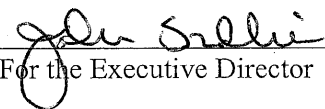
3. The provisions of this Agreed Order shall apply to and be binding upon Fossil Rim. Fossil Rim is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Fossil Rim shall be made in writing to the Executive Director. Extensions are not effective until Fossil Rim receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Fossil Rim in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Fossil Rim, or three days after the date on which the Commission mails notice of the Order to Fossil Rim, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/7/07


Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5/31/2007

Date

Dr. Patrick R. Condy

Name (Printed or typed)
Authorized Representative of
Fossil Rim Wildlife Center, Inc.

EXECUTIVE DIRECTOR

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

